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C/O THE LAW OFFICE OF ROBERT A. MCCLAUCHLAN
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MAILED
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OFFICE OF PETITIONS

In re Patent No. 6,711,954
Issue Date: March 30, 2004
Application No. 09/766,180
Filed: January 19, 2001
Attorney Docket No.: LOCK1420

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision in response to the petition, filed August 16, 2002¹, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application. See 37 CFR 1.137(f). The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is **DISMISSED**.

Petitioner indicates that the instant nonprovisional application became the subject of an application filed in a foreign country (PCT Application No. PCT/US01/51036 filed 12/19/01). However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), this application became abandoned because of a failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen month publication country must be accompanied by:

- (1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

¹ A copy of the petition was filed on November 14, 2002.

The petition cannot be granted because petition fee pursuant to 37 CFR 1.17(m) has not been paid.

Any request for reconsideration of this decision must be submitted with TWO (2) months from the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action with the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web www.uspto.gov/ebc/efs_help.html

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions